

REFERENCE TITLE: material witnesses; detention; depositions..

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2831

Introduced by

Representatives Paton, Aguirre A, Burns J, Senators Bee, Blendu:
Representatives McClure, Tully, Senators Aboud, Rios

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARTICLE 22, ARIZONA REVISED STATUTES, BY
ADDING SECTION 13-4085; RELATING TO MATERIAL WITNESSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 13, chapter 38, article 22, Arizona Revised Statutes,
3 is amended by adding section 13-4085, to read:

4 13-4085. Release or detention of material witness: depositions

5 A. IF IT APPEARS FROM AN AFFIDAVIT FILED BY A PARTY THAT THE TESTIMONY
6 OF A PERSON IS MATERIAL IN A CRIMINAL PROCEEDING AND IF IT IS SHOWN THAT IT
7 MAY BECOME IMPRACTICABLE TO SECURE THE PRESENCE OF THE PERSON BY SUBPOENA,
8 THE COURT MAY ORDER THE ARREST OF THE PERSON AND TREAT THE PERSON ACCORDING
9 TO RULE 7.2, ARIZONA RULES OF CRIMINAL PROCEDURE. A MATERIAL WITNESS MAY NOT
10 BE DETAINED BECAUSE OF THE WITNESS' INABILITY TO COMPLY WITH ANY CONDITION OF
11 RELEASE IF THE TESTIMONY OF THE WITNESS CAN BE SECURED ADEQUATELY BY
12 DEPOSITION AND IF FURTHER DETENTION OF THE WITNESS IS NOT NECESSARY TO
13 PREVENT A FAILURE OF JUSTICE. THE RELEASE OF A MATERIAL WITNESS MAY BE
14 DELAYED FOR A REASONABLE PERIOD OF TIME UNTIL THE DEPOSITION OF THE WITNESS
15 CAN BE TAKEN PURSUANT TO THIS SECTION OR THE ARIZONA RULES OF CRIMINAL
16 PROCEDURE.

17 B. ON THE MOTION OF ANY PARTY OR A MATERIAL WITNESS WHO HAS BEEN
18 DETAINED PURSUANT TO SUBSECTION A, THE COURT MAY ORDER THE EXAMINATION OF THE
19 MATERIAL WITNESS UNLESS THE MATERIAL WITNESS IS THE DEFENDANT OR A PERSON WHO
20 IS EXCLUDED BY RULE 39(b), ARIZONA RULES OF CRIMINAL PROCEDURE, ON ORAL
21 DEPOSITION. THE DEPOSITION SHALL BE NOTICED AND TAKEN PURSUANT TO RULE 15.3,
22 ARIZONA RULES OF CRIMINAL PROCEDURE.

23 C. THE COURT MAY ORDER THAT A MATERIAL WITNESS WHO IS DETAINED AND WHO
24 GIVES A DEPOSITION PURSUANT TO THIS SECTION BE RELEASED AFTER THE WITNESS
25 SIGNS THE DEPOSITION UNDER OATH.

26 D. A DEPOSITION THAT IS TAKEN PURSUANT TO THIS SECTION MAY BE USED AT
27 TRIAL AND AT ANY PRETRIAL PROCEEDING PURSUANT TO RULE 19.3, ARIZONA RULES OF
28 CRIMINAL PROCEDURE.